IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2869 of 2006
With
SPECIAL CIVIL APPLICATION No. 2870 of 2006
To
SPECIAL CIVIL APPLICATION No. 2885 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SHARDULBHAI B. PATHAN & 16 - Petitioner(s)

Versus

THE STATE OF GUJARAT & 4 - Respondent(s)

==========

Appearance :
MR TULSHI R SAVANI for Petitioner(s) : 1 - 17.
MR HM PRACHCHHAK ASST GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.
==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 24/02/2006

ORAL JUDGMENT

1. By way of this group of petitions, the respective petitioners have challenged the

legality and validity of the orders dated 29.8.2003 passed by the Deputy Collector, Stamp Duty Valuation, City Division No.I, Ahmedabad passed under Section-32-A of the Bombay Stamp Act by which the Deputy Collector, Stamp Duty Valuation has directed Rushi Owners Association through its Chairman viz.Shri Jayeshbhai Bachubhai Shah and the Secretary Shri Babubhai Maljibhai Desai to pay the deficit stamp duty of Rs.3,55,274/- plus Rs.250/- by way penalty in all Rs.3,55,524/- with respect to the document registration No.3002 dated 2.11.1994 presented before the Sub-Registrar, Ahmedabad.

2. It is the contention on behalf of the respective petitioners that against the impugned order dated 29.8.2003 passed by the Deputy Collector, Stamp Duty Valuation, City Division-1, Ahmedabad passed under Section-32-A the respective petitioners have preferred an appeal under Section-32-B of the Bombay Stamp Act before

the Chief Revenue Controlling Authority, State of Gujarat along with application for stay as well as delay condonation application. It is also further submitted that they have submitted application before the appellate authority for preferring an appeal under Section-32-B and that they have also approached the concerned Deputy Collector, Stamp Duty Valuation for deposit of 25% of the amount due but the Deputy Collector concerned has refused to accept the same as according to him, the appeal is barred by limitation. It is also the contention on behalf of the petitioners that before any decision can be taken by the Chief Revenue Controlling Authority on the delay condonation application and / or stay application, notices are issued for attachment under Section 152 of the Bombay Land Revenue Code and therefore, they have preferred the present special civil applications.

3. In view of the fact that the applications

submitted by the respective petitioners for condonation of delay as well as stay applications are pending before the Chief Revenue Controlling Authority and according to the petitioners, they have already approached the concerned Deputy Collector for deposit of 25 % of the amount which is required to be deposited as pre-condition under Section-32-B of the Act, and the same has not been accepted, at least, the Chief Revenue Controlling Authority is required to go into merits of the delay condonation application and take an appropriate decision and inform the petitioners accordingly whether to entertain their appeal or not. Under the circumstances, the Chief Revenue Controlling Authority, State of Gujarat is directed to decide and dispose of the delay condonation application/s submitted by the petitioners in accordance with law and on merits subject to complying with the other requirements under Section-32(B) of the Act such as pre-deposit etc and to communicate the outcome to the

petitioners as early as possible preferably within four weeks from the date of receipt of this order. It is however made clear that this Court has not expressed any opinion neither on merits nor with regard to condonation of delay and it is ultimately for the Chief Revenue Controlling Authority to take an appropriate decision accordance with law and on merits considering the averments in the application and after verifying the necessary record from the office of the Deputy Collector, Stamp Duty Valuation who has passed the impugned order under Section-32-A of the Bombay Stamp Act.

4. With aforesaid observations and directions, the present special civil applications stand disposed of accordingly. However, there shall be no order as to costs. Direct Service is permitted.

[M.R.Shah, J.]

=kailash=